



**COUNCIL OF  
THE EUROPEAN UNION**

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**SEMDOC**

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**LIMITE**

**SCHENGEN 74**

**PRESIDENCY NOTE**

from :	Presidency
to :	Schengen Acquis Working Group
Subject :	UK application to participate in provisions of the Schengen acquis

The Presidency hereby presents a draft Decision of the Council, to be taken on the basis of Article 4 of the Schengen Protocol, regarding the request of the United Kingdom to participate in some of the provisions of the Schengen acquis. The text takes into account delegations' comments on the preliminary draft discussed during the Working Party's meeting on 20 September 1999. The lists previously contained in documents 10066/1/99 SCHENGEN 67 REV 1 + ADD 1 have been inserted into the draft Decision.

The Presidency suggests that the following Joint Declaration of the Council shall be adopted upon adoption of the Decision:

The United Kingdom shall, prior to the putting into effect of the provisions referred to in Articles 1 and 9 (3), inform the Council of all circumstances that could have a significant bearing on the areas covered by the provisions referred to in these Articles.

**DRAFT**  
**COUNCIL DECISION**  
**of .....**

**Concerning the request of the United Kingdom of Great Britain and Northern  
Ireland to take part in some of the provisions of the Schengen acquis**

THE COUNCIL OF THE EUROPEAN UNION,

Acting on the basis of Article 4 of the Protocol annexed to the Treaty on European Union and to the Treaty establishing the European Community, integrating the Schengen acquis into the framework of the European Union (hereinafter referred to as 'the Schengen Protocol'),

Whereas the Government of the United Kingdom of Great Britain and Northern Ireland has requested, by its letters to the President of the Council of 20 May 1999 and 9 July 1999, to participate in certain provisions, as specified in those letters, of the Schengen acquis;

Having considered the opinion of the European Commission on this request<sup>1</sup>;

Bearing in mind the special position of the United Kingdom of Great Britain and Northern Ireland in respect of matters covered by Title IV of Part Three of the Treaty establishing the European Community, as recognised in the Protocol on the position of the United Kingdom and Ireland and in the Protocol on the application of Article 14 of the Treaty establishing the European Community, to the United Kingdom and to Ireland, annexed by the Treaty of Amsterdam to the Treaty on European Union and to the Treaty establishing the European Community;

Taking into account the consultations held in the Mixed Committee established pursuant to Article 3 of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen acquis<sup>2</sup>, as required under Article 2(1) of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway on the establishment of rights and obligations between Ireland and the United Kingdom of Great Britain and Northern Ireland, on the one hand, and the Republic of Iceland and the Kingdom of Norway, on the other, in areas of the Schengen acquis which apply to these States<sup>3</sup>;

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<sup>1</sup> Opinion of 20 July 1999, Doc. SEC(1999) 1198 final

<sup>2</sup> OJ L 176 of 10 July 1999, p. 35

<sup>3</sup> OJ .....

HAS DECIDED AS FOLLOWS:

*Article 1*

The United Kingdom of Great Britain and Northern Ireland shall participate in the following provisions of the Schengen acquis:

- a) In respect of the provisions of the 1990 Convention implementing the Schengen Agreement of 14 June 1985, its related Final Act and Joint Statements:
- i) Articles 26 and 27;  
Articles 39 and 40;  
[Article 41];  
Articles 42 and 43 [to the extent that they relate to Article 40];  
Article 44;  
Articles 46 and 47;  
Articles 48- 53<sup>4</sup>;  
Articles 54-58;  
Article 59;  
Articles 61-66;  
Articles 67-69;  
Articles 71-73;  
Articles 75 and 76;  
Articles 126 – 130 to the extent that they relate to the protection of personal data processed pursuant to cooperation under Articles 39, 46 and 47;  
Declaration 3 to the Final Act concerning Article 71(2).
  - ii) Article 92, to the extent that it does not relate to Article 96<sup>5</sup>;  
Articles 93 – 95, to the extent that they do not relate to Article 96;  
Articles 97-100;  
Article 101, except its paragraph 2;  
Articles 102-108, to the extent that they do not relate to Article 96;  
Articles 109-111, in respect of personal data registered in the national part of the SIS of the United Kingdom;  
Articles 112 and 113;  
Article 114, in respect of personal data registered in the national part of the SIS of the United Kingdom;  
Articles 115 – 118;

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<sup>4</sup> In respect of Article 53 (5), the UK will examine application of the provision in the light of the applicable provision of Community law on driving and rest time

<sup>5</sup> Some delegations consider that the SIS constitutes a single integrated system and have expressed the view that the UK should therefore participate in all the SIS-related provisions.

Article 119, subject to a specific decision of the Council, pursuant to Article 8 of this Decision, concerning the contribution of the United Kingdom in the costs for the installation and operation of the Schengen Information System<sup>6</sup>.

b) In respect of the provisions of the Agreements of Accession to the 1990 Convention implementing the Schengen Agreement of 14 June 1985, their Final Acts and Common Declarations:

- i) the Agreement signed on 27 November 1990 on Accession of the Italian Republic: Articles 2 [,3] and 4 and Common Declaration on Articles 2 and 3 [to the extent that it relates to Article 2].
- ii) the Agreement signed on 25 June 1991 on Accession of the Kingdom of Spain: Articles 2 [,3] and 4 and Final Act, Part III, Declaration 2.
- iii) the Agreement signed on 25 June 1991 on Accession of the Portuguese Republic: Articles 2 [,3], 4, 5 and 6.
- iv) the Agreement signed on 6 November 1992 on Accession of the Hellenic Republic: Articles 2, 3, 4 and 5 and Final Act, Part III, Declaration 2.
- v) the Agreement signed on 28 April 1995 on Accession of the Republic of Austria: Articles 2 [,3] and 4.
- vi) the Agreement signed on 19 December 1996 on Accession of the Kingdom of Denmark: Articles 2 [,3], 4, 5(2) and 6 and Final Act, Part II, Joint Declaration 3.
- vii) the Agreement signed on 19 December 1996 on Accession of the Republic of Finland: Articles 2 [,3], 4 and 5 and Final Act, Part II, Joint Declaration 3.
- viii) the Agreement signed on 19 December 1996 on Accession of the Kingdom of Sweden: Articles 2 [,3], 4 and 5 and Final Act, Part II, Joint Declaration 3.

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<sup>6</sup> see footnote 8

- c) In respect of the provisions of the following Decisions of the Executive Committee established by the 1990 Convention implementing the Schengen Agreement of 14 June 1985:
- i) SCH/Com-ex (98) 26 def (setting up the Schengen implementing Convention Standing Committee) [, subject to an internal arrangement specifying the modalities of participation of United Kingdom experts in missions carried out under the auspices of the relevant Council Working Party ];
- SCH/Com-ex (98) 51 rev 3 (cross border police-cooperation in the area of crime prevention and detection when requested);
- SCH/Com-ex (98) 52 (handbook on cross border police-cooperation);
- SCH/Com-ex (99) 6 (telecommunication);
- SCH/Com-ex (99) 7 rev 2 (liaison officers)<sup>7</sup>
- SCH/Com-ex (99) 8 rev 2 (payment to informers);
- SCH/Com-ex (99) 18 (improvement of police cooperation in preventing and detecting crimes);
- SCH/Com-ex (93) 14 (improving practical cooperation between the judicial authorities to combat drug trafficking);
- SCH/Com-ex (94) 28 rev (certificate provided for in Article 75 for transport of drugs and/or psychotropic substances);
- SCH/Com-ex (99) 1 rev 2 (drugs situation).
- ii) SCH/Com-ex (97) 2 rev 2 (awarding the tender for the SIS II preliminary study);
- SCH/Com-ex (97) 18 (contributions from Norway and Iceland to the C.SIS operation costs);
- SCH/Com-ex (97) 24 (future of SIS);
- SCH/Com-ex (97) 35 (C.SIS Financial Regulations);
- SCH/Com-ex (98) 11 (C.SIS with 15/18 connections);
- SCH/Com-ex (99) 5 (SIRENE Manual).

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<sup>7</sup> ES-reservation; the UK will examine whether the decision is related to external frontier control only and will inform the Presidency before the next meeting as to whether the UK wishes to apply the decision.

- d) In respect of the provisions of the following Declarations of the Executive Committee established by the 1990 Convention implementing the Schengen Agreement of 14 June 1985:
  - i) SCH/Com-ex (96) decl 6 rev 2 (declaration on extradition).
  - ii) SCH/Com-ex (97) decl 13 rev 2 (abduction of minors);  
SCH/Com-ex (99) decl 2 rev (SIS structure).

## *Article 2*

1. The officers referred to in the provision of Article 40(4) of the 1990 Convention as regards the United Kingdom shall be officers from police forces in the United Kingdom and officers of Her Majesty's Customs and Excise.
2. The authority referred to in the provision of Article 40(5) of the 1990 Convention as regards the United Kingdom shall be the National Criminal Intelligence Service.

## *[Article 3*

The officers referred to in the provision of Article 41(7) of the 1990 Convention as regards the United Kingdom shall be officers from police forces in the United Kingdom and officers of Her Majesty's Customs and Excise.]

## *Article 4*

The competent Ministry referred to in the provision of Article 65(2) of the 1990 Convention as regards the United Kingdom shall be the Home Office.

## *Article 5*

The delegation in the Joint Supervisory Authority, set up under Article 115 of the 1990 Convention, representing the national supervisory authority of the United Kingdom shall not be entitled to take part in voting procedures within the Joint Supervisory Authority on matters relating to the application of provisions of the Schengen acquis, or building upon the Schengen acquis, in which the United Kingdom does not participate.

## Article 8

1. Prior to a[ny] decision of the Council under paragraphs 1 and 2 of Article 7 relating to the Schengen Information System, the Council shall establish, through an amendment of the C.SIS Financial Regulations, the contribution of the United Kingdom to the installation costs of the technical support function of the System, as well as the key for calculating the annual contribution of the United Kingdom in the operational costs of the System.<sup>8</sup>
2. The Council shall also establish the contribution of the United Kingdom in the costs involved in the contracts concerning the installation and functioning of a "help-desk Server" of the Management Unit and concerning the SIRENE Network Phase II, and shall amend its Decision of 3 May 1999 (1999/323/CE), establishing a financial regulation governing the budgetary aspects of the management by the Secretary-General of the Council of these contracts<sup>9</sup>, as may be necessary. The United Kingdom shall be bound by the Decision of the Council and any amendments to it.

## Article 9

1. This Decision shall enter into force on the day following its publication in the *Official Journal of the European Communities*.
2. As from the day of entry into force of this Decision the representative of the Government of the United Kingdom of Great Britain and Northern Ireland in the Council is entitled without any notification to take part in the adoption of proposals or initiatives purporting to modify or build upon the provisions of the Schengen acquis referred to in Article 1.
3. Participation by the United Kingdom of Great Britain and Northern Ireland in the provisions of the Schengen acquis referred to in Article 1 implies its participation in any act adopted by the Council by which provisions of the Schengen acquis referred to in Article 1 have been modified or supplemented prior to their being put into effect for the United Kingdom of Great Britain and Northern Ireland in accordance with Article 7, or which constitutes a further development of these provisions.

Done at ,

*For the Council  
The President*

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<sup>8</sup> Some delegations expressed doubts as to the necessity of this provision, pointing out that Article 119 of the 1990 Convention would already provide for sufficient legal base.

<sup>9</sup> OJ L 123 of 13 May 1999, p. 51